

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 190C.3, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 47, “Iowa Organic Program,” Iowa Administrative Code.

The proposed amendments update provisions related to organic certification and remove provisions made redundant by national requirements already adopted by reference. The proposed amendments also rescind a number of items that were only recommendations.

Any interested persons may make written suggestions or comments on the proposed amendments on or before November 14, 2017. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

A public hearing will be held on November 14, 2017, at 2 p.m. in the second floor conference room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa.

These proposed amendments are subject to the Department’s general waiver provision.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 190C.

The following amendments are proposed.

ITEM 1. Rescind and reserve rule **21—47.2(190C)**.

ITEM 2. Amend rule 21—47.3(190C) as follows:

21—47.3(190C) Crops Drift.

~~47.3(1) Split operations.~~ Split operations shall be allowed. Segregation plans shall be developed and followed, and applicable logs shall be maintained for organic and nonorganic crops. The operation shall maintain, but not be limited to, the documents and logs addressing the following procedures: equipment cleaning, spraying, purging, separate storage and separate transportation. Appropriate physical facilities, machinery and management practices shall be established to prevent commingling of nonorganic and organic products or contamination by prohibited substances.

~~47.3(2) Buffer zone.~~

~~a. Requirements.~~

~~(1) If crops are grown in a buffer zone, such crops shall not be labeled, sold or in any way represented as organic.~~

~~(2) Crops harvested from buffer zones shall be kept separate from organic crops, and appropriately designated storage areas shall be clearly identified and records maintained to sufficiently identify the disposition of nonorganic product.~~

~~b. Recommendations.~~

~~(1) A minimum of 25 feet is recommended as a buffer zone between certified organic crops and areas treated with prohibited substances.~~

~~(2) Planting windbreaks and hedgerows is encouraged to help reduce spray drift from neighboring farms and wind damage to crops.~~

~~(3) It is recommended that the producer notify neighbors, county roadside management officials, railroads, utility companies and other potential sources of contaminants. It is recommended that the~~

producer provide such individuals with maps of organic production areas, request individuals not to spray adjacent areas, and request to be informed if prohibited materials are applied to land adjacent to organic production areas.

(4) Place “no-spray” or “organic farm” signs where appropriate, e.g., roadways and access areas.

47.3(3) Drift.

a. The party in control of the site shall notify the department’s organic program of suspected pesticide drift incidences onto certified organic land or land which is under consideration for organic certification. The department may require residue testing to make a determination regarding certification.

b. In the case of drift, the affected party may file a complaint under Iowa Code section 206.14 with the department’s pesticide bureau.

47.3(4) Runoff and flooding.

a. Records shall be kept regarding land that is subject to runoff or flooding.

b. The department may require testing to make a determination regarding certification.

47.3(5) Rotations. For the production of annual crops, rotations are required for soil improvement and disruption of weed, insect, disease and nematode cycles. A crop rotation including, but not limited to, sod, legumes or other nitrogen-fixing plants, and green manure crops shall be established.

a. *Annual agronomic crops (row crops and small grain crops).*

(1) Crops of the same species or family shall not be grown repeatedly without interruption on the same field or plot.

(2) Soil-building period. It is recommended that each field or plot be planted in and achieve a viable stand of a solid-seeded (non-row), soil-building legume crop or crop mixture that includes at least one legume species and that the field or plot be maintained a minimum of one year out of a five-year period. During this soil-building period, the producer may maintain the soil-building crop through the crop’s growing period to maturity or until the crop achieves its optimal soil-building characteristics. Soil-building crops may be used as winter cover or plow-down in fall. Some examples of soil-building practices include the following:

1. Plant and harvest a small grain crop with the solid-seeded crop mixture identified above; e.g., plant oats and alfalfa in the spring and harvest oats in the summer;

2. Maintain the solid-seeded crop mixture identified above for more than one season; e.g., alfalfa established in one season may be maintained and harvested for successive years if desired; or

3. Harvest the solid-seeded crop mixture identified above prior to its incorporation into the soil; e.g., harvest oats and alfalfa mixture in the summer prior to incorporation into the soil at a later time.

b. *Annual horticultural crops (fruit, vegetable, and herb crops).*

(1) Crops of the same species or family shall not be grown repeatedly without interruption on the same field or plot.

(2) Soil-building period. It is recommended that each field or plot be planted in and achieve a viable stand of a solid-seeded (non-row), soil-building legume crop or crop mixture that includes at least one legume species and that the field or plot be maintained a minimum of one year out of a five-year period. During this soil-building period, the producer may maintain the soil-building crop through the crop’s growing period to maturity or until the crop achieves its optimal soil-building characteristics. Soil-building crops may be used as winter cover or plow-down in fall. Some examples of soil-building practices include the following:

1. Plant and harvest a small grain crop with the solid-seeded crop mixture identified above; e.g., plant oats and alfalfa in the spring and harvest oats in the summer;

2. Maintain the solid-seeded crop mixture identified above for more than one season; e.g., alfalfa established in one season may be maintained and harvested for successive years if desired; or

3. Harvest the solid-seeded crop mixture identified above prior to its incorporation into the soil; e.g., harvest oats and alfalfa mixture in the summer prior to incorporation into the soil at a later time.

(3) It is recommended that the producer make an effort to establish a rotation sequence where crops of the same species or family, e.g., Solanaceae family: tomatoes, peppers, potatoes, and eggplant, are not planted in the same field or plot in consecutive years.

~~c. *Perennials.* Perennial systems shall include a plan for biodiversity in the system and a soil-building program, including the use of cover crops, mulches, grass cover and a soil-building legume crop mixture.~~

~~(1) It is strongly recommended that, at the end of a perennial crop life cycle that exceeds four years, the field or plot be planted in a solid-seeded (non-row) soil-building legume crop or crop mixture which includes at least one legume species, achieves a viable stand, and is maintained for a minimum of one year prior to planting another perennial crop.~~

~~(2) Replacement of individual plants within a perennial crop stand is permissible.~~

~~(3) Rescinded IAB 10/29/03, effective 12/3/03.~~

~~d. *Crop rotation variance.* Rescinded IAB 10/29/03, effective 12/3/03.~~

ITEM 3. Rescind and reserve rule **21—47.4(190C)**.

ITEM 4. Amend rule 21—47.5(190C) as follows:

21—47.5(190C) Use of state seal Recognition. For the promotion or sale of organic products, only those producers, handlers and processors certified as organic by the department are entitled to utilize the state Iowa Organic Program seal attesting to state of Iowa organic certification.

ITEM 5. Amend rule 21—47.6(190C) as follows:

21—47.6(190C) General requirements. In order to receive and maintain organic certification from the department, producers, processors and handlers of organic agricultural products shall apply for organic certification with the department and submit all required materials; comply with Iowa Code chapter 190C and this chapter; permit the department to access the operation and all applicable records as deemed necessary; comply with all local, state and federal regulations applicable to the conduct of such business; and submit all applicable fees to the department pursuant to Iowa Code section 190C.5(1) ~~as amended by 2003 Iowa Acts, House File 600, and this chapter.~~

47.6(1) Application for state organic certification.

a. Application for state certification shall be completed and submitted with required application materials and fees to the department on forms furnished by the department. Applications submitted to the department after the published deadline date may be charged late fees for application and inspection, and the processing of such applications may be subject to delays or the applications may not be processed at all.

b. The applicant shall inform the department of changes to the organic plan which may affect the conformity of the operation to the certification standards at any time during the certification process and after such certification is granted.

c. ~~The state-certified~~ certified party shall inform the department of any changes in the organic plan, such as production changes or intended modification to the product(s) or manufacturing process which may affect the conformity of the operation to the certification standards. ~~If such is the case, the certified party may not be allowed to release such products as certified organic products bearing the state seal until the department has given approval to do so.~~

d. The certified party shall keep a record of all complaints made known to that party relating to a product's compliance with requirements to the relevant standard and shall make these records available to the department upon request. The certified party shall take appropriate action with respect to such complaints and any deficiencies found in products or services that affect compliance with the requirements for certification, and all such actions shall be documented and available upon request by the department.

~~e. Records of inputs applied to nonorganic fields or livestock split or parallel operations shall be maintained and made available during inspections. This applies to all fields in the operation whether leased or owned.~~

47.6(2) Reserved.

ITEM 6. Amend rule 21—47.8(190C) as follows:

21—47.8(190C) Certification agent.

47.8(1) The department shall serve as certification agent on behalf of and as authorized by the secretary of agriculture pursuant to Iowa Code section 190C.3 ~~as amended by 2003 Iowa Acts, House File 600.~~

47.8(2) Scope of certification. Contingent upon USDA accreditation, the department may inspect and certify organic production and handling operations located outside of the state. The intent of the department is to facilitate continuity of certification services to Iowa-based farms or businesses, or when the county in which the applicant resides is contiguous to the state. Consideration may be given to other out-of-state applicants. ~~The department may seek accreditation from USDA to provide certification services in Iowa and other states where necessary.~~

ITEM 7. Amend rule 21—47.9(190C), introductory paragraph, as follows:

21—47.9(190C) Fees. Fees are established for application, inspection, and certification to support costs associated with activities necessary to administer this program pursuant to Iowa Code sections 190C.5(1) to 190C.5(3) ~~as amended by 2003 Iowa Acts, House File 600.~~ The applicant shall submit all fees to the department for the specific amount and at the appropriate time as specified in this rule. A schedule of application, inspection and certification fees shall be published by the department and disseminated with the application packet.

ITEM 8. Amend subrule 47.9(3) as follows:

47.9(3) Certification fees. Certification fees may be adjusted annually pursuant to Iowa Code section 190C.5(2) ~~as amended by 2003 Iowa Acts, House File 600.~~ The certification fee is assessed annually.

ITEM 9. Amend subrules 47.10(1) to 47.10(3) as follows:

47.10(1) Enforcement and investigations. The department and the attorney general shall enforce Iowa Code chapter 190C and this chapter pursuant to Iowa Code section ~~190C.21 as amended by 2003 Iowa Acts, House File 600~~ chapter 190C.

47.10(2) Complaints. Any person may submit a written complaint to the department regarding a suspected violation of Iowa Code chapter 190C and this chapter pursuant to Iowa Code section 190C.22(2) ~~as amended by 2003 Iowa Acts, House File 600.~~ Such signed complaints shall be submitted on the required form provided by the department upon request.

47.10(3) Inspection and testing, reporting and exclusion from sale—unscheduled inspection. All parties making an organic claim may be subject to an unscheduled on-site inspection, review of records and sampling if deemed necessary by the department pursuant to Iowa Code sections 190C.22(3), 190C.22(4), and 190C.24(1) ~~as amended by 2003 Iowa Acts, House File 600,~~ to verify compliance.

ITEM 10. Rescind and reserve rule **21—47.11(190C).**

ITEM 11. Amend **21—Chapter 47**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 190C ~~as amended by 2003 Iowa Acts, House File 600.~~